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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,310	09/16/2003	Mau-Song Chou	NGC-00088 (339-804)	1341
7590	08/18/2006		EXAMINER	
John A. Miller Warn, Burgess & Hoffmann, P.C. P.O. Box 70098 Rochester Hills, MI 48307			GABOR, OTILIA	
			ART UNIT	PAPER NUMBER
			2884	

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/663,310

Applicant(s)

CHOU ET AL.

Examiner

Otilia Gabor

Art Unit

2884

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 25 January 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See attached order from the Board of Appeals and Interferences returning Appeal Brief to Examiner. The Applicant is required to submit a corrected substitute Appeal Brief. The Examiner's Answer mailed March 13, 2006 is hereby vacated.

**OTILIA GABOR  
PRIMARY EXAMINER**



Otilia Gabor  
Primary Examiner  
Art Unit: 2884

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

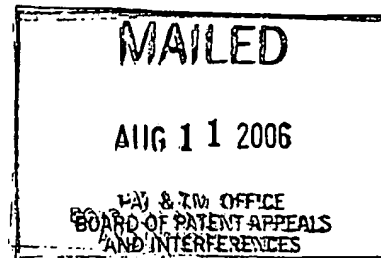
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Ex parte MAU-SONG CHO,  
LARRY YUJIRI,  
and DAVID P. DIXON

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Application No. 10/663,310

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received electronically at the Board of Patent Appeals and Interferences on August 8, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

On January 25, 2006, appellants filed an Appeal Brief. A review of the file reveals that the Summary of Claimed Subject Matter does not map the claimed invention to the independent claims as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number,

and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

On March 13, 2006, an Examiner's Answer was entered into the record.

In the Evidence Relied Upon section page 2, paragraph 8, the examiner relied on the following references:

6,242,740	Luukanen	6-2001
6,531,701	Chou	3-2003
6,853,452	Laufer	2-2005

A review of the file reveals that references Luukanen (U.S. Patent No. 6,242,740), Laufer (U.S. Patent No. 6,531,701), Chou (U.S. Patent 6,531,701) in view of Arnone et al. (U.S. Application 2004/0155665 A1) were used in the rejection of claims 4, 6-11, 26-44, 52-57, as stated in the Group of Rejection, paragraph (9) of the examiner's answer. The Manual of Patent Examining Procedure in § 1207.02 states:

**(8) Evidence Relied Upon.** A listing of the evidence relied on (e.g. patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

The examiner must submit a correct examiner's answer that will include in the Evidence Relied Upon section, the list of all references used in the rejections on appeal. Appropriate correction is required.

Accordingly, it is

**ORDERED** that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of January 25, 2006 defective;
- 2) request applicant to file a substitute Appeal Brief in compliance with 37 CFR

§ 41.37;

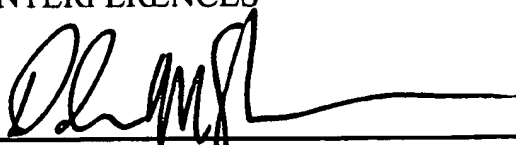
- 3) for the examiner to consider the substitute Appeal Brief;

- 4) vacate the Examiner's Answer mailed March 13, 2006, and issue a revised Examiner's Answer having the missing reference listed under the Evidence Relied Upon, paragraph (8);

- 5) have a complete copy of the substitute Appeal Brief and any subsequent Examiner's Answer scanned into the record; and
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



DALE M. SHAW

Deputy Chief Appeal Administrator  
(571) 272-9797

DMS/dal

Application No. 10/663,310

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